IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.137 of 1989
Date of decision:11.10.2006

The Commissioner of Income Tax, Haryana, Rohtak

....Petitioner

versus

Dr. Usha Verma, Rohtak

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Yogesh Putney, Advocate, for the revenue.

JUDGMENT:

Following questions of law have been referred for opinion of this Court by the Income Tax Appellate Tribunal, Delhi Bench "B" Delhi in RA No.439/Del/82 in ITA No.874/Del/81, in respect of assessment year 1978-79:-

> "i) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the income from the paying clinic should be taxed under the head 'profits or gains of profession' and not under the head 'Salary'?
>
> ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that there was no relationship of employee and employer, when the assessee, who is a Government employee, worked in the paying clinic run by the Government?"

The questions have already been gone into in the judgment of this Court in **The Commissioner of Income Tax, Haryana, Rohtak v. Dr. (Mrs.) Usha Verma, Rohtak,** ITR No.47 of 1985, decided on 21.11.2001 and the questions have been answered in favour of the revenue and against

the assessee.

In view of the above, the questions referred are answered in favour of the revenue and against the assessee.

(Adarsh Kumar Goel)
Judge

October 11, 2006
'gs'

(Rajesh Bindal)
Judge